

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

**In re: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE LITIGATION**

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) **MDL No. 1456**
) **Master File No. 01-CV-12257-PBS**
) **Subcategory Case No. 06-11337**
) **Hon. Patti B. Saris**

THIS DOCUMENT RELATES TO:

*United States of America ex rel. Ven-A-Care of the
Florida Keys, Inc., et al. v. Dey, Inc., et al.,*
Civil Action No. 05-11084-PBS

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) **Magistrate Judge**
) **Marianne B. Bowler**
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**DECLARATION OF MARISA A. LORENZO IN SUPPORT OF
DEY'S MOTION TO EXCLUDE THE OPINIONS OF MARK DUGGAN, PH.D.**

MARISA A. LORENZO declares, pursuant to 28 U.S.C. § 1746, that:

1. I am associated with the law firm of Kelley Drye & Warren LLP, counsel to Dey Pharma, L.P. (formerly known as Dey, L.P.), Dey, Inc., and Dey L.P., Inc. (collectively "Dey"). I am admitted to practice law in the State of New York and have been admitted *pro hac vice* in this action.

2. I make this Declaration in support of Dey's Motion to Exclude the Opinions of Mark Duggan, Ph.D.

3. The basis for my knowledge is my review of the files maintained by Kelley Drye & Warren LLP as part of its representation of Dey, including the documents attached hereto, and my own personal knowledge of the facts and circumstances set forth herein.

4. A true and correct copy of the expert report of Mark Duggan, Ph.D. in *United States of America ex rel. Ven-A-Care of the Florida Keys, Inc., et al. v. Dey, Inc., et al.*, Civil Action No. 05-11084-PBS, dated January 23, 2009, is attached as Exhibit 1.

5. A true and correct copy of the Rebate Agreement between Dey and CMS, dated February 19, 1991, is attached as Exhibit 2.

6. A true and correct copy of excerpts from deposition of Mark Duggan, Ph.D., dated February 27, 2009, is attached as Exhibit 3.

7. A true and correct copy of excerpts the expert report of Mark Duggan, Ph.D. in *United States of America ex rel. Ven-A-Care of the Florida Keys, Inc., et al. v. Abbott Laboratories, Inc., et al.*, Civil Action No. 06-111337-PBS, dated June 19, 2008, is attached as Exhibit 4.

8. A true and correct copy of excerpts from deposition of Mark Duggan, Ph.D., dated July 25, 2008, is attached as Exhibit 5.

9. A true and correct copy of excerpts from deposition of Mark Duggan, Ph.D., dated May 19, 2009, is attached as Exhibit 6.

10. A true and correct copy of excerpts from deposition of Mark Duggan, Ph.D., dated February 26, 2009, is attached as Exhibit 7.

11. A true and correct copy of excerpts from the deposition of Ronald Hartman, dated July 23, 2009, is attached as Exhibit 8.

12. A true and correct copy of Duggan, Mark and Scott Morton, Fiona M., "The Distortionary Effects of Government Procurement: Evidence from Medicaid Prescription Drug Purchasing" *The Quarterly Journal of Economics* (February 2006) is attached as Exhibit 9.

13. A true and correct copy of a letter from W. David Bradford, Ph.D., to Sarah L. Reid, dated January 15, 2010, is attached as Exhibit 10.

14. A true and correct copy of excerpts from the deposition of Deidre Duzor, dated March 26, 2008, is attached as Exhibit 11.

15. A true and correct copy of excerpts of pages entitled “Medicaid Prescription Drug Survey”, previously marked as Abbott Exhibit 143, is attached as Exhibit 12.

16. A true and correct copy of excerpts from deposition of Mark Duggan, Ph.D., dated July 14, 2008, is attached as Exhibit 13.

17. A true and correct copy of excerpts from the deposition of Deidre Duzor, dated February 27, 2008, is attached as Exhibit 14.

18. A true and correct copy of excerpts from the deposition of Harry Leo Sullivan, dated March 12, 2008, is attached as Exhibit 15.

19. A true and correct copy of excerpts from the deposition of Cody Wiberg, dated March 14, 2008, is attached as Exhibit 16.

20. A true and correct copy of excerpts from the deposition of Stanley Rosenstein, dated May 19, 2009, is attached as Exhibit 17.

21. A true and correct copy of excerpts from the deposition of Mark-Richard Butt, dated January 26, 2010, is attached as Exhibit 18.

22. A true and correct copy of an article from the Seattle Times, titled “Walgreens: No New Medicaid Patients as of April 16”, dated March 17, 2010, is attached as Exhibit 19.

23. A true and correct copy of a letter from Mark Duggan, Ph.D., to Renee Brooker, dated November 30, 2009, is attached as Exhibit 20.

24. A true and correct copy of a letter from Mark Duggan, Ph.D., to Renee Brooker, dated February 5, 2010, is attached as Exhibit 21.

25. A true and correct copy of a letter from W. David Bradford, Ph.D., to Sarah L. Reid, dated March 17, 2010, is attached as Exhibit 22.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 22, 2010.

/s/ Marisa A. Lorenzo
Marisa A. Lorenzo

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was delivered to all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending on March 22, 2010, a copy to LexisNexis File & Serve for posting and notification to all parties.

/s/ Marisa A. Lorenzo

Marisa A. Lorenzo